United Nations A/68/289

General Assembly

Distr.: General
7 August 2013

Original: English

Sixty-eighth session
Item 69 (b) of the provisional agenda*
Promotion and protection of all human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Right to adequate housing

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context, Raquel Rolnik, submitted in accordance with Human Rights Council resolution 15/8.

* A/68/150.

13-42184 (E) 100913

Please recycle

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context

Summary

In the present report, the Special Rapporteur on adequate housing builds on the findings of her previous report (A/67/286) and analyses two alternative housing policies — rental and collective housing — that can play a key role in the promotion of the enjoyment of the right to adequate housing for those living in poverty. She calls for a paradigm shift from the financialization of housing to a human rights-based approach and recommends that States promote various forms of tenure, including private and public rental, and collective tenure.

I. Introduction

1. In her previous report (A/67/286), the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context analysed the impact of prevalent housing policies implemented to promote access to homeownership for the urban poor. In the present report, the Special Rapporteur refers briefly to some previous findings while assessing two alternative housing policies — rental and collective housing — that can play a key role in the promotion of the enjoyment of the right to adequate housing for those living in poverty.

II. The rise of housing finance and the decline of non-market housing policies

2. In the late 1970s, a dramatic shift occurred in housing policies, starting with North America and Western Europe, followed later by some countries in Latin America, Asia, Africa and by formerly planned economies. The shift, calling for the transfer of activities from State control to the private sector and for unrestricted markets, soon gained hegemony, shaping the policies of States, international financial institutions and development agencies. The effects of the approach on housing policies, hence, on the right to adequate housing and related human rights across the globe have been striking.[1] The new role of the State as "enabler" led to creating conditions and institutions to support housing finance systems to promote homeownership under the neoliberal dogma of reliance on private property and market forces.[2]

3. Developed and developing countries have been steadily moving away from traditional supply-side assistance to demand-side housing policies. As a result, the financial sector and the private housing market became the primary mechanisms for allocating housing, by encouraging households to take credit, while the role of public housing and supply-side incentives has been gradually declining. Development assistance greatly influenced the expansion of market-based housing finance and boosted housing market activity in developing countries.[3]

---

[1] World Bank, *Housing: Enabling Markets to Work*, World Bank Policy Paper (Washington, D.C., 1993), 6.

[2] J. Doherty and others, *The Changing Role of the State: Welfare Delivery in the Neoliberal Era* (Brussels, European Federation of National Organizations Working with the Homeless (FEANTSA), 2005).

[3] *Housing Finance Systems for Countries in Transition: Principles and Examples* (United Nations publication, Sales No. 05.II.E.8), p. 7; World Bank, *The Emerging Role of Housing Finance* (Washington, D.C., 1988).

4. A nearly unanimous belief in individual homeownership marginalized public rental housing; in many countries most of such housing was sold off.[4] Similarly, the process led to radical changes in tenure structure; in many formerly planned economies owner-occupied housing now forms the bulk of the housing stock (for example, 96 per cent in Estonia and 77 per cent in Slovenia[5] and more than 80 per cent in China[6]). Even in countries where massive privatization did not occur, the ideological transfer of responsibility for the provision of housing to the market has been accompanied by the view that individual homeownership is the best tenure option and the centre of all housing policies. Some countries with a long tradition of broad-based social rental housing redefined their systems to promote ownership and "free market" principles. With subsidized accommodation less available, some households that might have otherwise rented were pushed towards homeownership.

5. In her previous report (A/67/286, paras. 10-13), the Special Rapporteur highlighted how the deregulation, liberalization and globalization of housing finance have had major implications for housing and urban development, eventually leading to the global affordability and housing crisis we are witnessing today. Housing costs are disproportionately affecting the poor and in Europe represent an average of 41 per cent of the income of people at risk of poverty.[7] The affordability crisis is compounded by the erosion, neglect and liberalization of non-market mechanisms for allocating housing resources, such as rental housing (public and private) and different forms of cooperative and collective ownership, among others.[8]

6. Paradoxically, side by side with the housing affordability and availability crises there is also a phenomenon of millions of empty or under occupied housing units, a clear reflection of the ineffectiveness of the current model. For illustration, there are nearly 1 million empty homes in the United Kingdom of Great Britain and

---

[4] United Nations Human Settlements Programme (UN-Habitat), *Affordable Land and Housing in Europe and North America* (Nairobi, 2011), p. 9; see also M. Munro, "Evaluating policy towards increasing owner occupation", *Housing Studies*, vol. 22 (2007), pp. 243-260, 247; K. Scanlon and C. Whitehead, "Le logement social en Europe: tendances communes et diversités persistantes", in C. Lévy-Vroelant and C. Tutin, eds., *Le logement social en Europe au début du XXIe siècle: la révision générale* (Rennes, France, Presses Universitaires de Rennes, 2010). Similar processes took place in developing countries although most countries never had a substantial public housing stock (see UN-Habitat, *Affordable Land and Housing in Africa* (Nairobi, 2011), p. 49).

[5] Replies received from Estonia and Slovenia to a questionnaire sent by the Special Rapporteur to Member States on 5 April 2012 (hereafter "the questionnaire").

[6] J. R. Logan, Y. Fang and Z. Zhang, "The winners in China's urban housing reform", *Housing Studies*, vol. 25 (2010), pp. 101-117.

[7] Alice Pittini, "Housing affordability in the EU: current situation and recent trends", research briefing of the European Social Housing Observatory, No. 1 (European Federation of Public, Cooperative and Social Housing (CECODHAS Housing Europe)) (January 2012), p. 3. As opposed to 22.5 per cent of the disposable income for the general population. Utility and maintenance costs are one of the main housing affordability issues for low-income households.

[8] Julie Lawson, Tony Gilmour and Vivienne Milligan, *International Measures to Channel Investment towards Affordable Rental Housing* (Melbourne, Australian Housing and Urban Research Institute, 2010).

Northern Ireland, of which 350,000 have been empty for more than six months;[9] in the United States 14.2 million homes have been vacant for more than one year.[10]

7. In her previous report, the Special Rapporteur analysed the main housing finance policies implemented as a means of facilitating access of the poorest to homeownership. The sections below summarize the main findings with regard to the impact of those approaches on the right to adequate housing of those living in poverty.

A. Mortgage markets

8. In recent years market-based housing finance has rapidly spread throughout the world, mainly targeting the more affluent segments of society that have had the initial capital to take a mortgage, profiting lenders through the payment of interest. Traditionally, mortgage finance has been considered unattainable for the poor owing to issues such as lack of land titles, low and erratic income and employment in the informal sector.

9. However, during the past two decades new mortgage products were designed specifically for borrowers with low incomes or poor credit history[11] who were not eligible for regular mortgage finance, generating sub-prime loans. Although those lending policies were intended to enable access to credit for low-income households, they are extremely discriminatory: the poorer the credit taker, the higher the interest he/she has to pay. High-interest loans led to ever-increasing household indebtedness, economic insecurity, mortgage arrears and repossession rates. Poor households were forced to reduce expenditure on other essential needs, like food or medicines, in order to meet their housing debt.[12]

10. The adverse effects of housing credit growth on affordability have also been visible at the macroeconomic scale. Wider access to mortgage loans resulted in higher and more volatile housing prices.[13] Increasing dependence on mortgage credit, private institutions and connection to broader developments in the global capital markets has overexposed national housing systems to the turbulence of global finance, raising levels of debt and concentrating risks among individual households. Countries that adopted an open system of mortgages, based on subprime loans, easily granted credit and the securitization of mortgages, have seen a serious crisis since 2008.[14]

11. The discrepancy between income levels and soaring housing and rental prices coupled with increasing unemployment have led to more payment default,

---

[9] See *The Great British Property Scandal*. Available from http://www.channel4.com/programmes/the-great-british-property-scandal/articles/about-the-campaign/.

[10] See http://www.realtytrac.com/content/news-and-opinion/americas-142-million-vacant-homes-a-national-crisis-7723.

[11] World Bank, *Thirty Years of World Bank Shelter Lending: What Have We Learned?*, Robert M. Buckley and Jerry Kalarickal, eds. (Washington, D.C., 2006).

[12] Mark Stevens, "Tackling Housing Market Volatility in the UK: a progress report" (York, United Kingdom, Joseph Rowntree Foundation, May 2011), p. 82.

[13] International Monetary Fund (IMF), *Global Financial Stability Report: Durable Financial Stability — Getting There from Here* (Washington, D.C., 2011), p. 134.

[14] See A/67/286 and A/HRC/7/16/Add.2, A/HRC/10/7, A/HRC/13/20/Add.4 and A/HRC/16/42/Add.3.

foreclosures and homelessness. These processes are exacerbated by the adoption of legal and institutional adjustments aimed at facilitating foreclosures, which have been promoted in recent years as "imperatives for developing a housing finance system".[15] The crisis has disproportionately affected the poorest and most vulnerable, who were the last to join the mortgage markets and the first to suffer the consequences of the crises owing to their low resilience to economic shocks and low repayment abilities.[16]

B. Demand subsidies

12. A major component of the shift to demand-side housing policies has been the promotion of Government subsidies for privately produced residential units, mobilizing public resources and directing them to individual potential buyers with the idea of reducing Government intervention. The rationale behind the programmes is that low-income households will be able to finance their housing through the free market, with their own savings, assisted by a down-payment subsidy or a subsidized loan. Such types of subsidies include: (a) direct payments, either up front (to lower the amount of the loan, closing costs, down payment or insurance premium, or capital grant) or on a monthly basis; (b) subsidies tied to savings programmes; (c) interest-rate or interest-payment subsidies; (d) tax subsidies and exemptions tied to mortgage payments or real estate taxation.[17] The last three types of subsidies are extremely costly, target mainly middle-income households and tend to have regressive effects (for example, in the United States the top 20 per cent of households earning over $ 100,000 per annum gain 75 per cent of the tax relief on mortgage payments).[18] Such policies indirectly discriminate against low-income households, in particular when implemented as the main housing policy, since their cost to national budgets is often enormous, while they mostly benefit mostly the more affluent households (see A/67/286, paras. 34-37).

13. The capital-grant-subsidy has been the most frequently promoted programme to target low-income households. The approach offers cash subsidies by private companies to cover part of the price of a dwelling for sale.[19] The Chilean experience has been considered the model for other countries,[20] widely replicated in Latin America (Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala,

[15] World Bank, *Housing Finance Policy in Emerging Markets*, Loic Chiquier and Michael Lea, eds. (Washington, D.C., 2009), pp. 94-95.

[16] A. Colau and A. Alemany, *Vidas Hipotecadas* (Barcelona, Angle Editoriál-Cuadrilátero Libros, 2012), pp. 21-22; see also concluding observations of the Committee on Economic, Social and Cultural Rights on the fifth periodic report of Spain (E/C.12/ESP/CO/5), para. 21.

[17] Some Governments also encourage homeownership through tax exemptions on capital gains from property or on the imputed income from homeownership. Since tenants pay rent from their income after tax, homeowners gain by not having to pay rent and thereby accrue an additional income.

[18] Matthew O'Brien, "Why the mortgage interest deduction is terrible", *The Atlantic* (17 July 2012).

[19] Diana Mitlin, "New directions in housing policy", in *Global Urban Poverty: Setting the Agenda*, Allison M. Garland, Mejgan Massoumi and Blair A. Ruble, eds. (Washington, D.C., Woodrow Wilson International Center for Scholars, 2007), pp. 151 and 163; see also UN-Habitat, *Affordable Land and Housing in Latin America and the Caribbean* (Nairobi, 2011), p. 57.

[20] A. Gilbert, "Power, ideology and the Washington consensus: the development and spread of Chilean housing policy", *Housing Studies*, vol. 17, No. 2 (2002), pp. 305-324.

Mexico, Panama, Peru and Venezuela (Bolivarian Republic of).[21] Outside of Latin America, the capital-grant approach has been implemented on a large scale in South Africa since 1994.[22]

14. However, in the absence of land planning and regulations, a large amount of subsidies available in the housing market has led to significant increases in land and housing prices, a general problem of affordability for low-income households and long waiting lists.

15. Problems have also emerged with regard to the location of housing units, some exacerbating exclusion and segregation. In countries like Chile, subsidized housing developments were built in the urban periphery where land costs were lowest, but which lacked adequate infrastructure, schools, health facilities, transportation and employment opportunities and were characterized by low habitability.[23]

16. Pursuant to articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights, and from a human rights perspective, Governments are required to make effective use of their available resources to ensure the enjoyment of the right to adequate housing, including by prioritizing the poorest. That obligation implies more than a roof since the right to housing entails access to an array of services and facilities that guarantee an adequate standard of living. Capital-grant subsidies have had a narrow focus on reducing only the quantitative deficits of houses without adequately incorporating a human rights view. In that sense, they have failed to address broader aspects of habitability, location, availability of services and infrastructure and non-discrimination. As one commentator observed, the new stock of subsidized housing often created a greater housing problem: "the problem of those 'with roofs'".[24]

C. Housing microfinance

17. Until the 1980s, slum dwellers and the urban poor had not been a target for financial services.[25] However, in the 1980s private financial investors came to

---

[21] Replies received from El Salvador, Guatemala, Mexico and Venezuela (Bolivarian Republic of) to the questionnaire; Inter-American Development Bank, "Sharpening the Bank's capacity to support the housing sector in Latin America and the Caribbean: background paper for the implementation of the social development strategy" (Washington, D.C., 2006).

[22] Financial and Fiscal Commission of South Africa, "Building an inclusionary housing market: shifting the paradigm for housing delivery in South Africa — for an equitable sharing of national revenue" (January 2012).

[23] Pablo Trivelli y Compañía, "Urban structure, land markets and social housing in Santiago, Chile" (January 2010). See also Alfredo Rodríguez and Ana Sugranyes, eds., *Los Con Techo: un Desafío para la Política de Vivienda Social* (Santiago, Ediciones SUR, 2005); UN-Habitat, *Housing Finance Mechanisms in Mexico* (Nairobi, 2011); Fernando Jiménez-Cavieres, "Chilean housing policy: a case of social and spatial exclusion?", doctoral dissertation prepared for Technical University of Berlin, 2006.

[24] See Rodriguez and Sugranyes, *Los Con Techo* (see footnote 3 above).

[25] UN-Habitat, *Housing for All: The Challenges of Affordability, Accessibility and Sustainability: The Experiences and Instruments from the Developing and Developed Worlds* (Nairobi 2008), p. 11; see also UN-Habitat, *Financing Urban Shelter: Global Report on Human Settlements 2005* (Nairobi, Earthscan, 2005), pp. 99-100.

regard the poor as "bankable",[26] and in the past 10 years, a growing number of housing microfinance programmes emerged offering loans to low-income households.[27] Housing microfinance loans are much smaller than mortgages, are typically granted for shorter terms[28] and are used mainly to finance progressive improvements to housing (for example, building sanitary amenities) and expansions to an existing dwelling.[29]

18. Most housing microfinance initiatives originate in developing countries and emerging markets — Latin America,[30] Asia and, to a lesser extent, in Africa.[31] Although microfinance agency interest rates are typically lower than those of informal moneylenders, they are much higher (between 20 and 50 per cent)[32] than those charged by formal financial institutions and have much shorter maturities. The poorer the client, the more likely the housing microfinance agency will attempt to manage default risk by reducing the size as well as the time over which the client must repay the loan and by increasing the interest rate.[33] The use of floating rates of interest also leads to increases over the repayment period, sometimes up to double the original rate.[34] It is therefore questionable whether housing microfinance fosters housing affordability for the urban poor or whether, in some cases, it leads to increased indebtedness.

19. The small scale and the nature of most housing microfinance programmes, in particular their focus on profitability, prevent them from addressing other central aspects of the right to adequate housing — tenure security, location, infrastructure and the availability of services.

---

[26] Bruce Ferguson and Peer Smets, "Finance for incremental housing; current status and prospects for expansion", *Habitat International*, vol. 34 (2010), pp. 288-289; World Bank, *Housing Finance Policy in Emerging Markets*, p. 395; C. K. Prahalad and S. L. Hart, "The fortune at the bottom of the pyramid", *Strategy and Business*, No. 26 (first quarter, 2002), p. 1.

[27] UN-Habitat, *Financing Urban Shelter* (see footnote 25 above), pp. 103-104, 106-112; see also *Housing Finance in Emerging Markets: Connecting Low-Income Groups to Markets*, Doris Köhn and J. D. von Pischke, eds. (Berlin, Springer, 2011), pp. 33-35.

[28] Center for Urban Development Studies, Harvard University Graduate School of Design, *Housing Microfinance Initiatives: Synthesis and Regional Summary — Asia, Latin America and Sub-Saharan Africa with Selected Case Studies* (Bethesda, United States, Development Alternatives, May 2000).

[29] Bruce Ferguson, "Housing microfinance: a key to improving habitat and the sustainability of microfinance institutions", *Small Enterprise Development*, vol. 14, No. 1 (March 2003), p. 21.

[30] Such as MiBanco in Peru, BancoSol in the Plurinational State of Bolivia, Banco Solidario in Ecuador, Banco Ademi in the Dominican Republic, Calpia in Honduras and Genesis Empresariál in Guatemala. UN-Habitat, *Financing Urban Shelter*, p. 106 (see footnote 25 above).

[31] FinMark Trust, "Scoping the demand for housing microfinance in Africa: status, opportunities and challenges" (2009); see also Annika Nilsson, "Overview of financial systems for slum upgrading and housing", *Housing Finance International*, vol. 23, No. 2 (December 2008), pp. 20-21; S. Merill and N. Mesarina, "Expanding microfinance for housing", *Housing Finance International*, vol. 21, No. 2 (December 2006), p. 21.

[32] UN-Habitat, *Housing for All* (see footnote 25 above), p. 19.

[33] Ibid., pp. 23-25.

[34] P. K. Manoj, "Prospects and problems of housing microfinance in India: evidence from 'Bhavanashree' project in Kerala State", *European Journal of Economics, Finance and Administrative Sciences*, No. 19 (2010), pp. 178 and 190.

D. Summary

20. Housing finance policies based on credit for homeownership are inherently discriminatory against lower-income households and, at their best, promote affordable access for upper- and middle-income groups. Housing finance policies often "redline" the poor, who are required to pay much higher prices for financial services, exposing them to financial risks and indebtedness. At the same time, housing finance policies tend to focus solely on access to a roof while failing to effectively and comprehensively address the various elements of the right to adequate housing: location, access to infrastructure and services, habitability, cultural adequacy and security of tenure. At the macro level, the disproportionate use of such policies has contributed to price volatility and to the ongoing housing affordability and availability crises.

21. By contrast, countries that have adapted a more balanced housing policy, by encouraging a variety of tenure forms, such as Austria, Germany, and Switzerland, have suffered little from the recent property crises. According to Housing Statistics in the European Union 2010 and Eurostat 2010, 40 per cent of the population in Austria rents and 56 per cent owns their dwellings; 54 per cent of the population in Germany and 56.1 per cent in Switzerland are tenants. Such examples demonstrate that the division between the various forms of tenure and housing policies is not a "natural" or necessary choice but rather influenced by State intervention and regulation of the housing sector through the use of its available resources as well as through legislation and policies, including fiscal, taxation and subsidy measures.

22. The sections below provide a review of alternative housing policies for the urban poor that have been largely ignored by States in recent years — rental arrangements and collective and tenure — while analysing their compatibility with the promotion of the right to adequate housing of those living in poverty.

III. Alternative housing policies for the urban poor

A. Rental arrangements

1. Public and social rental housing

23. As mentioned earlier in the report, the availability of public rental housing in many developed countries has diminished substantively or disappeared altogether. Most developing countries have never had a substantive stock of public housing, and those that have privatized it. A partial exception is the Republic of Korea where, in 2002, the Government announced a plan to build 1 million public housing units for rent over the next decade.[35] Similar attempts have been made in recent years in Indonesia as part of a national programme for 1,000 Towers, some of which were intended for low-cost rental apartments (*rusunawa*), albeit with mixed results.[36]

24. In recent years, some Governments have looked towards non-profit organizations to provide housing for the poor and to limit Government involvement

[35] R. Ronald and M-Y Jin, "Homeownership in South Korea: examining sector underdevelopment", *Urban Studies*, No. 47, No. 1, pp. 2367-2388.

[36] According to Indonesia's reply to the questionnaire. See also http://www.en.indonesiafinancetoday.com/read/30632/Govt-Fails-to-Meet-Rusunawa-Construction-Target.

in the housing sector. Such institutions range from charities and housing associations to educational bodies. However, the social housing sector is substantive only in a handful of countries, mainly in Western Europe. As a result of cuts in funding to public housing and the ongoing global economic and financial crisis, waiting lists for social housing are increasing and the provision of affordable housing is not sufficient to keep up with the demand. In England, housing waiting lists augmented by 76 per cent between 2000 and 2011;[37] in France 1.2 million applicants are registered on waiting lists for social housing, and in Italy there are 630,000.[38]

2. Private rental

25. Despite the decline in support for rental housing, the absolute number of tenants worldwide is rising. Across the world, approximately 1.2 billion people (around one third of the urban population and one sixth of all people in the world)[39] live in rented accommodation, the great majority in towns and cities. In many European countries the private rental sector, including informal, is playing a growing role for the poor, owing to inadequate access to social housing and greater constraints in accessing ownership.[40] In developing countries, the largest proportion of tenants is in urban Africa; in Asia, tenants comprise approximately one third of the urban population.[41]

26. Rental arrangements provide a range of options to low-income households in terms of location, improved mobility (particularly related to employment opportunities) and flexibility in terms of dwelling type (smaller or shared units that are not available in other tenure forms).[42] Rental tenure enables low-income households to avoid house price risks, indebtedness and exposure to falling capital values and carries a lower transaction cost than homeownership.[43] Rental housing also provides a regular additional source of income for low-income small landlords, which can serve as a safety net against precarious employment or as a form of pension after retirement and old age. This is particularly important in the case of low-income settlements. However, construction of extensions for renting purposes is often discouraged by planning regulations and stringent building standards.[44]

---

[37] Department of Communities and Local Government Households on local authorities' housing waiting lists. Available from http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/rentslettings/livetables/ (table 600).

[38] Pittini, "Housing affordability in the EU" (see footnote 7 above), p. 8.

[39] *World Urbanization Prospects, the 2011 Revision*.

[40] *Towards a Sustainable Private Rented Sector: the Lessons from Other Countries*, Kath Scanlon and Ben Kochan, eds. (London, London School of Economics, 2011), p. 8; see also Peter A. Kemp, "Low-income tenants in the private rental housing market", *Housing Studies*, vol. 26 (2011), pp. 1019 and 1020-1021. For example, in 2007 one in eight households in England were renting their home from a private landlord, but almost a quarter of those living in poverty were doing so.

[41] Sunil Kumar, "The research-policy dialectic: a critical reflection on the virility of landlord-tenant research and the impotence of rental housing policy formulation in the urban Global South", *City*, vol. 15, No. 6 (2011), pp. 662, 663-664.

[42] *Towards a Sustainable Private Rented Sector* (see footnote 40 above), p. 12.

[43] Ibid., p. 139.

[44] Sunil Kumar, "Room for manoeuvre: tenure and the urban poor in India", paper presented at the Second Urban Research Symposium, 15-17 December 2003 (World Bank, Washington, D.C.); see also UN-Habitat, *Shelter Provision and Employment Generation* (Geneva, 1995).

27. The access of poor households to rental housing is currently impeded by costs, mainly as a result of rising rent prices and a shortage of affordable rental housing.[45] More and more households in Europe are facing difficulties in paying the rent (3.8 per cent of Europeans, and 8.6 per cent of those with income below 60 per cent of the median national income).[46] Rent affordability issues are more widespread in developing countries where rental housing is even less available. The rent-to-income ratio for African cities is more than twice that of cities in high-income countries at 39.5 per cent of income.[47]

28. Significant increases in the supply of private rented housing are therefore necessary to help empower lower income tenants in the rental market and relieve affordability problems.[48] In addition, demand-side policies are required to increase the affordability of the rental sector for the poor. Although most Governments have focused their efforts on increasing individual homeownership, there are some good examples of supply- and demand-based policies aimed at encouraging the small-scale private rental sector and increasing rent affordability for low-income households.[49] Such interventions include taxation, direct or indirect subsidies, and regulation.[50] State policies towards the informal rental sector also affect the accessibility of the poorest to rental arrangements.

3. Taxation and supply-side subsidies

29. The tax treatment of private rental investment is a critical factor in either stimulating (Australia, France, Germany, the Netherlands, and New Zealand) or discouraging it (United States and Canada).[51] Taxation for other tenure investment options also has an influence on the rental sector: favouring tax deduction or exemptions for homeownership (including non-taxation of capital gains and

---

[45] (Organization for Economic Cooperation and Development (OECD) "Housing markets and structural policies in OECD countries", OECD Economics Department working paper No. 863 (January 2011).

[46] Pittini, "Housing affordability in the EU" (see footnote 7 above), p. 8; see also "Kemp, "Low-income tenants" (see footnote 40 above), pp. 1026 and 1029.

[47] UN-Habitat, *Affordable Land and Housing in Africa*, (see footnote 4 above), p. 24.

[48] *Towards a Sustainable Private Rented Sector* (see footnote 40 above), p. 146.

[49] In most countries, the most landlords operate on a small-scale. See J. Rugg and D. Rhodes, "The private rented sector: its contributions and potential" (Centre for Housing Policy, University of York, 2008). For illustration, in Chile, 80 per cent of owners own one property, and another 10 per cent own two. Commercial investors in rental housing are only important in a handful of countries, including the United States, Switzerland (where pension funds play an important role because they are required to hold real estate as part of their portfolios, and rental apartment buildings are a popular asset for pension fund managers and Russia (where the privatization process created a group of massive landlords — the former industrial companies that built housing stock for their workers. See also J. Hegedüs, M. Lux and N. Teller, *Social Housing in Transition Countries* (Oxon, Routledge, 2012).

[50] Steve Pomeroy, *Private Rental Policies and Programs: Review of the International Experience* (Ottawa, 1999), p. 107; see also Steve Pomeroy and Marc Godbout, "Development of the rental housing market in Latin America and the Caribbean", Inter-American Development Bank Discussion Paper (2011), pp. 10-11.

[51] Pomeroy and Godbout, Development of the rental housing market" (see footnote 50 above), p. 19; see also Australian Housing and Urban Research Institute, "What makes a landlord decide to invest and dis-invest in private rental housing?"(May 2010).

mortgage interest deductibility) encourages it, undermining the attraction of rental investment.[52]

30. Some European counties (such as the Netherlands and Sweden) employ a rental subsidy system to encourage rental developers or private owners through reduced interest programmes.[53] The long-standing subsidization scheme in Germany for both the social housing sector and private investors laid the foundation for a large private rental housing market.

31. In Austria, a sustained combination of supply-side polices has resulted in a large housing stock with reasonable rents, allocated to middle-income groups with additional means-tested benefits for lower-income groups. By providing discounted building land, grants, public loans and tax favoured investment, the federal, regional and municipal governments have strategically promoted the development of limited profit, cost-capped, and cost-rent housing, catering to a range of households including low-income households.[54]

4. Demand subsidies

32. Some countries have been implementing rent assistance programmes in order to address affordability problems (see A/HRC/13/20/Add.4, paras. 10 and 25).[55] However, evidence indicates that such initiatives, in the absence of other policies regulating markets and assisting recipients of housing allowances, are not sufficient to provide adequate and affordable rental housing for low-income households. In countries in which rental supply is limited, subsidies schemes actually lead to an increase in rental prices[56] and shortages of rental stock for low-income earners.[57] Low income households receiving housing benefits often face difficulties in finding and keeping habitable accommodation in adequate locations with access to services, despite the extra purchasing power, owing to the low value of the benefits (given the rise in rental prices) and discrimination against vulnerable groups in the private rental market (see A/HRC/13/20/Add.4, paras. 17-26).[58] In addition, means testing for housing benefits is often complicated, targeting is not always effective and allocation procedures encourage corruption.[59] The tight conditioning of housing benefits on income levels has been criticized for failing to reach all beneficiaries (for example, only 40 per cent of private renters living in poverty in England are in

---

[52] Pomeroy and Godbout, "Development of the rental housing market" (see footnote 50 above), p. 20.

[53] According to the response received from Slovakia to the questionnaire on security of tenure sent by the Special Rapporteur on 22 March 2013.

[54] Wolfgang Amann, Julie Lawson and Alexis Mundt, "Structured finance allows for affordable rental housing in Austria", *Housing Finance International*, vol. 23, No. 3 (June 2009), p. 14.

[55] According to the response received from Finland to the questionnaire on security of tenure sent by the Special Rapporteur on 22 March 2013. In some countries, housing benefits took the form of vouchers — a method that has been used in the United Kingdom and in the United States for many years. See L. Winnick, "The triumph of housing allowance programs: how a fundamental policy conflict was resolved", *Cityscape*, vol. 1, No. 1 (September 1995), pp. 95-121.

[56] "Housing benefit cuts", Crisis Policy Briefing, May 2012. Available from http://www.crisis.org.uk/data/files/publications/Crisis%20Briefing%20-%20Housing%20Benefit%20cuts.pdf), 9.

[57] Dugald Monro, "Public rental Housing policy: learning the lessons from overseas", Research Paper 6, 1997.

[58] See also Kemp, "Low-income tenants" (see footnote 40 above), p. 1025.

[59] Council of Europe, *Housing Policy and Vulnerable Social Groups* (Strasbourg, 2008), p. 50.

receipt of housing benefit).[60] Furthermore, the substantial cuts in housing benefits currently applied in various countries as part of recent austerity measures are likely to exacerbate the problem (see A/67/286, para. 32).[61]

33. On the other hand, the cost of rent subsidies for low-income households is significantly lower than the cost of subsidies for homeownership. Moreover, for families with a very low and unstable income, rent subsidies can provide a better alternative than homeownership. Research done in Brazil, for instance, has shown that very low-income households tend to sell their private homes, in particular the very poorly located ones, and move back to informal settlements.

5. Rent legislation and rent control

34. One of the main means of securing affordability and tenure for low-income tenants in private rental arrangements is rent legislation, regulation and control.[62] Rent regulation varies greatly between regions, but typically includes two main elements: (a) security of tenure, establishing a minimum duration of occupancy as well as limitations on the eviction of tenants; and (b) control on levels of price increase, intended both to preserve affordability and to preclude de facto economic eviction. Rent control regimes tend to establish the amount and frequency of rent increases, linking it to fiscal measures such as inflation rates.[63] In general, restrictions on rent increases are maintained only during sitting tenancy.[64]

35. Critics of rent control and regulation claim that such measures produce inefficiencies, distort market values, reduce the housing supply and encourage corruption and low housing maintenance.[65] Rent regulation has also been criticized for not targeting low-income households since controlled rents and protected tenancies usually favour those who have lived in rental housing for years over potential new tenants,[66] and there is no mechanism to ensure that those benefitting from rent control are the low-income households.[67]

36. In some countries, however, notably, Austria, Germany and Switzerland, and over the course of many decades, in some cities like New York and San Francisco in the United States (see A/HRC/13/20/Add.4, para. 44), rent regulation has had

---

[60] Dugald Monro, "Public rental housing policy" (see footnote 57 above); see also Kemp, "Low-income tenants" (see footnote 40 above), p.1032.

[61] For example in the United Kingdom (see Kemp, "Low-income tenants" (footnote 40 above), p. 1022). Funding cuts have contributed to the loss of over 150,000 vouchers in the United States between 2005 and 2007(see A/HRC/13/20/Add. 4, para. 36).

[62] S. I. Kalim, "Rent-control legislation and its impacts in Karachi", in *Rental Housing: Proceedings of an Experts Group Meeting* (Nairobi, United Nations Centre for Human Settlements, 1990), pp. 186 and 188.

[63] Marietta Haffner, Marja Elsinga and Joris Hoekstra, "Balance between landlord and tenant? A comparison of the rent regulation in the private rental sector in five countries", for the European Network for Housing Research 2007 International Conference on "Sustainable Urban Areas"

[64] Pomeroy and Godbout, "Development of the rental housing market" (see footnote 50 above), p. 16.

[65] "The great Manhattan rip-off", *The Economist* (5 June 2003); see also *Towards a Sustainable Private Rented Sector* (see footnote 40 above), p. 10.

[66] A. Malpezzi, "Rental housing in developing countries: issues and constraints, in *Rental Housing: Proceedings of an Experts Group Meeting* (Nairobi, United Nations Centre for Human Settlements, 1990), pp. 104 and 113.

[67] S. Kumar, "Landlordism in Third World urban low-income settlements: a case for further research, *Urban Studies* (1996), pp. 768-769.

favourable effects on stabilizing the rental sector and maintaining access by low-income households to urban housing that is well located.[68] In Switzerland, rental investments have been maintained even though rent controls reduce the housing costs of long-standing tenancy, and legislation prevents arbitrary eviction and the exploitation of temporary shortages.[69] In Quebec, Canada, a consistent and well-established regulatory system, with a reasonable balance between protecting tenants and encouraging investment, has been retained.[70] In Uruguay, the Government has introduced a different tool to balance the interests of landlords and tenants, through a fund that provides guarantees to cover costs arising from the non-payment of rent and service payments (*Fondo de Garantía de Alquileres*).[71]

37. Such examples demonstrate that it is possible to design rent regulation and tenancy protection mechanisms that do not distort or discourage the private rental market but actually encourage it. A well-regulated rental market can promote the goals of protecting tenants, particularly low income, and encouraging rental housing simultaneously. On the other hand, the elimination of rent controls and the easing of eviction procedures, has rarely led to more investment in the rental market but has actually skewed the market in the direction of homeownership.[72]

38. Although States do not have the obligation to directly provide adequate housing to all, they have the obligation to protect against abuses of human rights by third parties and to adopt the necessary measures to enable and assist individuals in enjoying their human rights. When housing provision is transferred to third parties (the private rental market), the State should regulate the market in order to protect against human rights abuses (such as forced evictions or economic eviction and rental price "bubbles") and to create an enabling environment for the realization of the right to adequate housing, with particular focus on the poorest and most marginalized.[73] As indicated by the Committee on Economic, Social and Cultural Rights in paras. 8 (c) and 17 of its General Comment No. 4, tenants should be protected by appropriate means against unreasonable rent levels or rent increases.

6. Informal private rental housing

39. Access to urban land for housing, especially serviced land, is one of the major problems faced by developing countries. Informal access to land, increasingly through rental arrangements, is becoming a key form of accessing affordable housing for the poor. A large share of urban landlords in developing countries therefore operate informally in unplanned settlements.[74]

---

[68] See *Towards a Sustainable Private Rented Sector* (see footnote 40 above), p. 145.

[69] E. Werczberger, "Home ownership and rent control in Switzerland", *Housing Studies*, vol. 12, No. 3 (1997), pp. 337-353.

[70] Pomeroy and Godbout, "Development of the rental housing market" (see footnote 50 above), pp. 16-18.

[71] See Uruguay, "El alquiler como alternativa de acceso a la vivienda", XIX Asamblea General de Ministros y Autoridades Máximas de Vivienda y Urbanismo de América Latina y el Caribe, September 2010. See also http://www.mvotma.gub.uy/alquilar/garantia-de-alquiler.

[72] UN-Habitat, *Affordable Land and Housing in Africa* (see footnote 4 above), p. 50.

[73] See Guiding Principles on Business and Human Rights (A/HRC/17/31, annex); see also report of the Special Rapporteur on the right to safe drinking water and sanitation (A/HRC/15/31, paras. 18-21).

[74] UN-Habitat, *Affordable Land and Housing in Africa* (see footnote 4 above), pp. 27-28 and 37.

40. A variety of rental sub-markets exists,[75] including rooms in inner city tenements, custom-built tenements, rooms in informal settlements, renting land and building rental units to let or building units in the backyard of dwellings. The trend is particularly noticeable in Latin America, where informal owners enlarge their homes to house tenants in order to rise their incomes.[76] In Sub-Saharan Africa, taking in lodgers within the existing structure is common in several countries.[77] The transformation of Government-built housing to include rental units is widespread in Northern Africa as well as Sub-Saharan Africa.[78] In Asia, informal rental ranges from unlicensed high-rise buildings that accommodate migrant workers in the "urban villages" of China to rented plots in some Indian and Thai cities where tenants build their own shelter.[79] Most of those options — ignored by regulations — offer very precarious conditions to tenants.

41. Most informal landlords let property that lacks a building license, do not issue written contracts,[80] do not abide by rental and tax legislations and requirements, and in most cases are unaware(as are their tenants) of the existing relevant legislation.[81]

42. The informal rental sector is a crucial component of the housing sector in developing countries and is also increasing today in many European cities,[82] filling a gap created by the current housing policies that do not adequately address the housing needs of low-income households. Unfortunately, slum upgrading

---

[75] Kumar, "The research-policy dialectic" (see footnote 41 above), p. 664.

[76] C. Escallón, *Arrendamiento Alternativa Habitacional y Vivienda Popular en Colombia* (Universidad de los Andes y Alcaldía Mayor de Bogotá; see also A.G. Gilbert and others, *In Search of a Home: Rental and Shared Housing in Latin America*) (UCL Press and the University of Arizona Press, 1993).

[77] M. Grant, "Lodging as a migrant economic strategy in urban Zimbabwe", *Development Southern Africa*, vol. 24, No. 1, (March 2007), pp. 77-90; see also P. Amis and P. Lloyd eds., *Housing Africa's Urban Poor* (Manchester University Press, 1990); UN-Habitat, *Quick Guides for Policy Makers: Housing the Poor in African Cities 7 — Rental Housing — A Much Neglected Housing Option for the Poor* (Cities Alliance, 2011); M. Huchzermeyer, "Tenement city: the emergence of multi-storey districts through large-scale private landlordism in Nairobi", *International Journal of Urban and Regional Research*, No. 31 (2007), pp. 714-732.

[78] UN-Habitat, *Affordable Land and Housing in Africa* (see footnote 4 above), p. 48; see also L. Bank, "The rhythms of the yards: urbanism, backyards and housing policy in South Africa", *Journal of Contemporary African Studies*, vol. 25, No. 2 (2007), pp. 205-228; O. Crankshaw, A. G. Gilbert and A. Morris, "Backyard Soweto", *International Journal of Urban and Regional Research*, vol. 24, No. 4 (2000), pp. 841-857.

[79] Kumar, "Landlordism in Third World urban low-income settlements" (see footnote 67 above), pp. 753-782; Kumar, "Room for manoeuvre" (see footnote 44 above).

[80] In Uruguay, while 79 per cent of tenants in Montevideo had signed a written contract in 2006, 21 per cent had only a verbal agreement — see L. Macellaro "Estudio sobre el mercado de viviendas de alquiler en Uruguay"(Montevideo, 2010); "Caracterización del mercado de arrendamientos urbano para el segmento de la población de bajos ingresos: informe final de resultados", realizado para el Ministerio de Ambiente, Vivienda y Desarrollo Territorial, UN-Habitat First Initiative (Centro de Estudios de la Construcción y el Desarrollo Urbano y Regional, 2007). In Thailand, only a minority, 45 per cent, have a written contract. See also M. Morange," Backyard shacks: the relative success of this housing option in Port Elizabeth", *Urban Forum*, No. 13, pp. 3-25.

[81] J. E. Torres, "Estudio sobre el mercado de arrendamiento de vivienda en Colombia: informe final" (Bogotá, 2011), p. 12.

[82] Emily Kelling and others, "London's backyard informality", workshop paper presented at a conference of Research Committee 43 (Housing and the Built Environment) of the International Sociological Association, Amsterdam, 10-12 July 2013.

programmes have largely ignored the impact on tenants and have sometimes even failed to notice that most target settlements even contain tenants.[83] In some cases, the upgrading programmes even prohibit owners from letting upgraded properties.[84] Such situations are incompatible with the obligation of States to promote the right to adequate housing, inter alia, by facilitating the "self-help" efforts of disadvantaged groups.[85] However, there are a few reliable programmes that include direct subsidies and cheap loans to owners who need to repair their properties and to owners who wish to extend their property to accommodate additional tenants.[86]

7. Summary

43. While increasing access to homeownership for low-income households through credit has proved to lead to overindebtedness and housing crises, rental housing has the potential to promote a range of more affordable options, while reducing financial risk and enabling better mobility.

44. Adequate housing must be in a location that allows access to employment options and public services. This is particularly relevant to poor households since the financial costs of travelling to work can place excessive demands upon already limited budgets.[87] With the support of State intervention, through rent subsidies to low-income households, the provision of State land to low-income rental and other measures, a private rental sector has the potential to promote access to better located, adequate housing for low-income households in urban settings.

45. For low-income households, ensuring a high degree of security of tenure in the private rental market is of the utmost importance since poor tenants cannot afford the costs associated with a change of dwelling or with challenging evictions and cannot compete in a completely unregulated private rental market (even when receiving housing benefits). It is therefore also necessary to ensure that regulation and accountability are respected in order to prevent economic de facto evictions and to enable low-income households to access affordable rental housing in urban areas that are well located.

46. Evidence indicates that both demand- and supply-side subsidies for the private rental sector are more cost effective and less costly then subsidies for homeownership and are therefore more compatible with the obligation of States to make use of the maximum available resources in order to ensure the progressive realization of the right to adequate housing. A regulated and effective housing benefit system is necessary to ensure various aspects of the right to adequate housing, including affordability, non-discrimination and habitability, while also enhancing the opportunities for individuals to exercise a number of other human rights, including the right to work, the right to education and the right to health. In

---

[83] Kumar, "The research-policy dialectic" (see footnote 41 above), p. 668.

[84] E. Rojas, ed., *Building Cities: Neighbourhood Upgrading and Urban Quality of Life* (Inter-American Development Bank, 2010); see also F. Magalhães and F. di Villarosa, eds., *Slum Upgrading: Lessons Learned from Brazil* (Inter-American Development Bank, 2012).

[85] See Committee on Economic, Social and Cultural Rights General Comment No. 4, para. 10.

[86] Such as the "plan terrazas" programme implemented in the 1970s in Colombia. See T. Johnson, "Upward filtering of housing stock: a study of upward filtering of housing stock as a consequence of informal settlement upgrading in developing countries", *Habitat International*, No. 11, pp. 173 and 187.

[87] Committee on Economic, Social and Cultural Rights General Comment No. 4, para. 8 (f).

addition, the private (formal and informal) rental sector is better targeted to lower-income households (compared with housing finance schemes that mainly assist middle-income households) and therefore may assist States in complying with the obligation to give due priority to social groups living in unfavourable conditions. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others.[88]

B. Collective forms of tenure

47. Common property is a regime that allocates a package of property rights to a group. Such rights may include ownership, management, use, exchange and access of shared resources.[89] The term "common property regime" refers to a set of institutions, regulations and management practices subject to collective decision-making. Such regimes are distinct from communal tenure, which refers more broadly to community-based tenure systems, in which some form of collective authority (for example, an extended family, clan or other social grouping) holds allocation rights.[90] The present section refers to common property tenure arrangements in urban settings that have been implemented in recent years in both developed and developing countries.

1. Housing cooperative systems

48. A housing cooperative is a legal association formed for the purpose of providing housing to its members on a continuing basis. It is owned, maintained and controlled by its members.[91] Housing cooperatives are based on collective ownership and management and can take various forms, including tenure cooperatives (in which owns housing development are owned and the members own equity shares in the cooperative), rental cooperatives (in which members pay rent to the cooperative), finance cooperatives (in which the cooperative provides loans to members for building construction or repairs) and building cooperatives (wherein building construction is undertaken and land is developed on behalf of members). Some cooperatives combine two or more of those functions.[92]

49. The classic cooperative model has evolved mainly in Europe, and the "Scandinavian" cooperative model, founded in 1923, is one of the most influential. In Sweden, cooperative housing accounted for 22 per cent of all housing in 2011.[93]

---

[88] Ibid., para. 11.

[89] C. Hess and E. Ostrom, "A framework for analysing the microbiological commons", *International Social Science Journal*, No. 58, pp. 335-349; see also A. Fuys and others, "Securing common property regimes in a globalizing world: synthesis of 41 case studies on common property regimes from Asia, Africa, Europe and Latin America" (Rome, International Land Coalition, 2008), p. 82.

[90] J. W. Bruce, *Legal Bases for the Management of Forest Resources as Common Property* (Rome, Food and Agriculture Organization of the United Nations, 1999); see also Fuys and others, *Securing Common Property Regimes* (see footnote 89 above).

[91] National Confederation of Cooperatives "Cooperatives in housing: starting housing projects — a guide for cooperatives starting a housing project" (Philippines, 2004).

[92] Sukumar Ganapati, "Enabling housing cooperatives: policy lessons from Sweden, India and the United States", *International Journal of Urban and Regional Research*, vol. 34, No. 2 (2010), pp 365 and 368.

[93] S. Moreau and A. Pittini, *Profiles of a Movement: Cooperative Housing Around the World* (CECODHAS Housing Europe, 2012).

Swedish cooperative organizations have received significant state support since the 1950s, when housing subsidies were applied equally to all forms of tenure, including cooperatives.[94] The Swedish legislation[95] provides a clear legal framework for the operation of housing cooperatives by defining the legal status of the relevant associations, such as the Savings and Construction Association of Tenants (HSB) and the cooperative housing organization known as *Riksbyggen*, and of the tenant owners. Additional rules and regulations are adopted by the associations themselves with tenant majority approval.

50. In Latin America, a successful example of housing cooperatives on a national scale is the mutual aid cooperatives in Uruguay, which are promoted by the Federation of Mutual Aid Housing Cooperatives. The Uruguayan legislation recognizes collective tenure, and the regulation of the housing cooperatives is encompassed in the 1992 General Cooperative Law. Since 1965, around 600 Federation cooperatives have been consolidated in Uruguay, and around 20,000 families are living in houses and apartments built through mutual aid. Mutual aid cooperatives have been introduced and adapted in 14 Latin American and Caribbean countries over the past 20 years through various initiatives.[96]

51. A recent form of cooperatives combining finance and building are community funds, which have been developed in Africa and Asia.[97] These funds work with group loans and/or savings in order to assist communities in financing land regularization and acquisition, infrastructure and service provision, and home improvements.[98] The Asian Coalition for Community Action programme has promoted community funds in Asia from 2009 to 2011, carrying out 111 housing projects in 15 countries, at a total cost of almost $4 million; collective agreements were used in 36 of the projects.[99]

52. A collective organization enables cooperatives to take on complex housing and infrastructure projects that would otherwise not be possible for an individual household. Community funds provide financial and technical support for the purchase of land parcels and communal infrastructure (such as roads, drainage, water and sanitation).[100] The process typically involves negotiations with other stakeholders, such as the original owners of the parcel and the Government.[101] In the Scandinavian model, the "mother" (also known as "parent" or "secondary")

---

[94] However, in recent years State support for cooperative housing has weakened as part of a housing commodification process. See Sukumar, "Enabling housing cooperatives" (see footnote 92 above), p. 374.

[95] The 1991 Cooperative Housing Act, the 1987 Cooperative Societies Act and the 1930 Tenant-Ownership Act.

[96] M. Solanas, "La Transferencia del Cooperativisimo Uruguayo de Vivienda por Ayuda a Otras Latitudes: una Experiencia de Cooperación Internacional", *Revista Vivienda Popular de la Facultad de Arquitectura de Montevideo* (2011).

[97] According to reply received from Thailand in response to the questionnaire on security of tenure sent by the Special Rapporteur on 22 March 2013, in reference to the Baan Mankong National Collective Housing Program that has benefited 600,000 households between 2003-2007.

[98] UN-Habitat, *Financing Urban Shelter* (see footnote 25 above), p. 99.

[99] S. Boonyabancha, "Baan Mankong: going to scale with 'slum' and squatter upgrading in Thailand", *Environment and Urbanization*, vol. 17, No. 1 (April 2005); UN-Habitat, *Affordable Land and Housing in Asia* (Nairobi, 2011).

[100] UN-Habitat, *Financing Urban Shelter* (see footnote 25 above), p. 99.

[101] Nilsson, "Overview of financial systems" (see footnote 31 above), p. 19; Erlend Sigvaldsen, "Key issues in housing microfinance" (Oslo, Nordic Consulting Group, 2010), pp. 16-17.

cooperative association is responsible for building housing developments, which are then sold to "daughter" (also known as "subsidiary" or "primary") cooperatives. Financial risk for members is limited to their daughter cooperative.[102]

53. The collective structure also promotes affordability and security of tenure by enabling group loans or savings or, in some cases, assistance funds for temporary defaults by members. The collective organization and management of common areas and housing maintenance is also crucial to promoting affordability for low-income households.[103] In the Scandinavian model, homeowners will typically fund 75-80 per cent of the cost of a housing development, while the rest is covered by a loan taken by the daughter cooperative. Cooperative homeowners also benefit from a 30 per cent tax reduction on interest expenditures on either cooperative shares or properties. Tenants may be evicted by the cooperative board only in a limited number of circumstances. In the case of community funds, interest rates on loans are usually relatively low and loan periods are often long, up to 25 years.[104]

54. The Uruguayan mutual aid cooperatives promote affordable housing through a collective process involving the future occupiers. Ownership, as well as responsibility for the mortgage and maintenance of the property is collective and indivisible.[105] Under the Federation of Mutual Aid Housing Cooperatives model, families can get access to collective housing loans without previous savings (particularly suitable for low-income households); the time they spend building the houses is considered to be down payment (15 per cent of public bank mortgage).[106] Members pay a monthly share of the collective mortgage, an additional fee to the Cooperative Fund for the maintenance of common spaces and services, and an assistance fund for members that are temporarily unable to pay to the cooperative due to various reasons (such as accident, loss of employment or death of bread winner).

55. In the Uruguayan model, security of tenure is ensured by a contract between the cooperative and the member ("contrato de uso y goce" of the Federation of Mutual Aid Housing Cooperatives), which is not time bound. Each family enjoys usufruct rights that can be inherited or sold back to the cooperative. The value of the member's share is paid back to him by the cooperative in two instalments over a period of three years and comprises the value of labour hours; maintenance of the common areas; the repaid amount of the loan; and the repaid interest. This prevents a high member turnover and protects the cooperative from gentrification processes.

2. Community land trusts

56. A community land trust is a form of common land ownership, wherein land is considered to be a commonwealth, and only structures and other improvements are considered private property. Community land trusts aim to remove land from the

---

[102] National Confederation of Cooperatives, "Cooperatives in housing" (see footnote 91 above); see also HSB, "Useful information for HSB tenant owners" (2012) and "Welcome to HSB: a booklet for all those who have just move in" (2012).

[103] S. Blandy, J. Dixon and A. Dupuis, eds., *Multi-owned Housing: Law, Power and Practice* (Ashgate, 2010).

[104] Such as in the case of the community mortgage programme in the Philippines.

[105] B. Nahoum, *Una Historia Con Quincemil Protagonistas: Las Cooperativas de Vivienda por Ayuda Muta Uruguayas* (Montevideo, Intendencia Municipal de Montevideo, 2008).

[106] For instance, the Conjunto Intercooperativo, built between 1971 and 1975.

speculative real estate market; to provide access to land and housing to people who would otherwise be denied access; to expand long-term community control of land resources; and to preserve the affordability of housing permanently.[107]

57. The large majority of community land trusts are organized essentially as "affordable housing trusts", and will oversee the development, sale or rental, and maintenance of housing units to buyers or renters who will lease the land from the community land trust. Through the use of an inheritable ground lease (typically for 99 years), community land trusts define the rights and responsibilities of the individual as the owner of the structures, and the community as the owners of the land.[108] Usually, the community land trust is governed by a board of directors comprising one third leasers of the community land trust; one third residents from the surrounding community (that do not live on the leased properties of the community land trust) and one third individuals who represent the public interest.

58. Community land trusts have been expanding over the past 50 years, primarily in the United States[109] where, according to the national network, close to 250 were active as at June 2013. They also exist in the United Kingdom[110] and Canada.[111] An increasing number of municipal governments are forming community land trusts as a progressive strategy for addressing affordable housing needs that cannot be met solely with public housing programmes. Chicago, United States, is perhaps the largest example of a municipal government forming a public community land trust.[112]

59. The main purpose of community land trusts is to lock the value of the land in order to preserve the long-term affordability of housing for low- and middle-income households. Such affordability and location aspects are therefore one of the main pillars of community land trusts, and purchase or rental prices are usually below market value (typically 20 to 65 per cent),[113] essentially because the leaseholder only pays for the home and not the land. In exchange, homeowners accept limitations when reselling their homes, usually committing to a maximum 25 per cent profit of the original price paid. This allows future low- to moderate-income households to access the same property at an affordable cost and help the

---

[107] D. Diacon, R. Clarke and Silvia Guimaraes, *Redefining the Commons: Locking in Vlaue through Community Land Trusts* (Coalville, United Kingdom, Building and Social Housing Foundation, 2005), p. 55.

[108] UN-Habitat, *Community Land Trusts: Affordable Access to Land and Housing* (2012), Global Urban Economic Dialogue (2005), pp. 18, 11-12; see also J. E. Davis, *The Community Land Trust Reader* (Cambridge, United Kingdom, Lincoln Institute of Land Policy, 2010).

[109] For example, the Champlain Housing Trust (Burlington, Vermont, United States) — Champlain Housing Trust bylaws, adopted 1 October 2006, amended 26 January 2008 and 31 January 2009; see also J. Libby, "The policy basis behind permanently affordable housing: a cornerstone of Vermont's housing policy since 1987" (Vermont Housing and Conservation Board, 2009).

[110] For example, Letchworth Garden in the United Kingdom. The Letchworth Garden City Heritage Foundation manages most of the city lands, and its assets were estimated to be around £110 million in 2012 (according to the Letchworth Garden City Heritage Foundation 2010/2011 corporate plan).

[111] For example, Milton Parc, Montreal, Canada. The trust is held by a co-owner union, *Syndicat de co-propriété*, and comprises 26 housing cooperatives and non-profit housing corporations.

[112] UN-Habitat, *Community Land Trusts* (see footnote 108 above), p. 18.

[113] Community Partners for Affordable Housing, 2012, Affordable Homes for our community, Chicago.

community to resist gentrification processes and development-related displacement.[114]

60. Although community land trusts do not provide loans or financial mechanisms, they assist potential members and advise them on their best choices in relation to their financial situations, including training seminars and pre-purchase stewardship. Recent evidence from the United States indicates that members of community land trusts have been less affected by the subprime mortgage crises and subsequent foreclosure proceedings.[115]

61. However, research indicates that community land trusts have generally been able to address the needs of lower middle-income households (commonly with an income between 30-80 per cent below median income) but have not been able, except in rare occasions, to reach the poorest 15 per cent of the population.[116] One of the main barriers to low-income households is the screening and selection process employed by most community land trusts, which include income documentation, credit records and job history and security.[117]

62. Unlike housing cooperatives, community land trust systems have yet to be incorporated into national legislation. Each community land trust develops its own unique financing approach for both operating costs and project costs, and these approaches often include combinations of public[118] and private sources, and grants and loans.

3. Summary

63. The cases of community land trusts, cooperatives and community funds demonstrate the capacity of collective organizations to tailor housing solutions that adequately address security of tenure, affordability, location and availability of services and infrastructure in urban settings for low-income households.[119]

64. Although not all types of collective organizations are accessible to the poorest segments of society, there are numerous advantages to such a form of tenure, including: (a) the use of community leverage to compete with existing housing market forces; (b) cooperative and collective forms of tenure are inextricably linked to enhanced democratic participation, better access to information, and community-led governance; (c) both cooperatives and community funds provide their members with financial strength (through community loans or savings that enable low-income households better access to housing finance); (d) as opposed to the individual finance schemes detailed above, community organizations also have the ability to

---

[114] UN-Habitat, *Community Land Trusts* (see footnote 108 above), p. 36.

[115] In 2009, 30.56 per cent of sub-prime loans were at risk of being foreclosed, with over 90 days delinquency, compared with 7.01 per cent for prime loans and only 1.62 per cent for community land trust loans. See E. Thaden and G. Rosenberg, "Outperforming the market: delinquency and foreclosure rates in community land trusts", *Land Lines* (October 2010), pp. 2-7.

[116] R. Greenstein and Y. Sungu-Eryilmaz, "Community land trusts: a solution for permanently affordable housing", *Land Lines* (January 2007), p. 10; see also J. E. Davis, and A. Stokes "Lands in trust, homes that last: a performance evaluation of the Champlain Housing Trust (Burlington, Vermont, Champlain Housing Trust, 2009), p. 39.

[117] UN-Habitat, *Community Land Trusts* (see footnote 108 above), p. 23.

[118] Such as housing trust funds — state, county or local governments establish a fund for low- to moderate-income housing assistance, often with a dedicated funding source.

[119] Sukumar Ganapati, "Enabling housing cooperatives" (see footnote 92 above), p. 365.

control land and housing affordability by controlling land prices (community land trusts), providing increased economic resilience (through financial support to households that temporary encounter financial difficulties (Federation of Mutual Aid Housing Cooperatives), protecting low-income households from the housing market volatility and by limiting economic displacement and gentrification.

65. Both cooperatives and community land trusts also promote affordable housing for the poor by taking on responsibility for the maintenance and rehabilitation of communal housing space, which is a heavy cost for the poor. By locking land and housing values, community land trusts and cooperatives also contribute to the overall stability of land market and housing affordability. Finally, the leverage of the community greatly enhances the ability of low-income household members to access housing that is well located in urban areas and to ensure security of tenure in these locations.

66. Collective forms of tenure clearly represent an effective form of self-help that may assist in the progressive realization of the right to adequate housing. In accordance with paragraphs 10 and 11 of General Comment No. 4 of the Committee on Economic, Social and Cultural Rights, States have an obligation to facilitate the activity of such mechanisms for housing production and allocation, particularly when evidence indicates that they can promote access to adequate housing for marginalized groups that would otherwise be excluded from the housing market. However, despite these clear advantages, to date collective tenure remains at a limited scale, mainly as a result of the lack of supportive legal, financial and institutional frameworks in most countries. Although community structures need a certain degree of autonomy in order to regulate the relationship between the members and the organization and preserve their decision-making autonomy, they also require supportive legal and institutional structures in order to enable their functioning. For example, the legal recognition of collective tenure is essential, as well as the possibility of taking on collective loans. In that context, it is crucial that the State provide urban land that is well located, in particular in densely populated urban settings, in order to support the ability of collective housing organizations to compete in the land market.

IV. Conclusion and recommendations

67. **Housing policies have increasingly been reduced to housing finance systems to promote homeownership. Evidence indicates that housing policies based exclusively on facilitating access to credit for homeownership are incompatible with the full realization of the right to adequate housing for low-income households, as they fail to supply habitable and affordable housing to the poor that is secure and well located.**

68. **The Special Rapporteur calls for a paradigm shift from the financialization of housing to a human rights-based approach to housing policies. In that context, she makes the following recommendations:**

(a) States should promote various forms of tenure:

(i) A mixture of tenure solutions, including private and public rental and collective tenure, is essential for the promotion of access to adequate housing for the various segments of society and in order to shield

individuals and households from economic and financial shocks. Legal and institutional frameworks should be created to ensure security of tenure for all forms of tenure;

(ii) The design of housing policies should be based on an assessment of housing needs, taking into consideration the specific demographic, geographic, economic and social conditions in each region, and the characteristics of the various disadvantaged groups (including low-income households), their existing housing conditions and forms of tenure;

(iii) States should refrain from focusing their housing policies on finance schemes with predominantly regressive effects, such as mortgage interest rate subsidies or tax exemptions;

(b) Rental tenure should be encouraged:

(i) A well-functioning rental sector with both private renting and social components is critical to a sustainable housing system. States should therefore support and encourage the development of both a private and social rental sector;

(ii) States should adopt measures to encourage the construction and maintenance of a private rental sector, including by providing incentives for small-scale landlords (such as tax incentives and supply-based subsidies that stimulate private investment) and support the non-profit and community-based development of rental housing;

(iii) States should provide housing support mechanisms for low-income households or households with irregular income, including by providing rent allowances; establishing a housing benefit system and guaranteeing funds to cover the costs arising from the non-payment of rent and service payments of the most vulnerable; and providing tenancy protection and rent control legislation;

(iv) States should recognize and support the informal rental sector in informal settlements, and include in their housing programmes incentives and subsidies to assist small-scale landlords to expand and improve habitability in rental accommodation;

(v) States should encourage and support the use of standardized rental contracts, in order to reduce the number and severity of disputes between landlords and tenants. To that end, standard forms of contracts should be freely available and widely distributed and should not require notary approval;

(vi) Urban renewal and informal settlement upgrading programmes should take into account the rights of tenants and should be designed with their full participation;

(vii) States should encourage greater use of empty housing stock, by, inter alia, encouraging the rehabilitation of vacant homes, increasing taxation on unused properties and improving access to low-cost loan funds for people who require financial assistance to get empty properties back into use , including through rent;

(c) Collective forms of tenure should be encouraged:

(i) States should support cooperative, collective and communal forms of tenure by designing and investing adequate resources through, inter alia: legal recognition and protection of cooperative and collective ownership of land and housing in urban areas; and support for housing policy and financial mechanisms, including access to credit and State subsidies, tax benefits to collective institutions, State provision of technical assistance and urban land that is well located for collective housing organizations;

(ii) Cooperative and collective forms of tenure are inextricably linked to enhanced democratic participation and community-led governance. States should therefore support activities of civil society organizations that play a crucial role in the development and maintenance of collective forms of tenure, in particular for low-income groups.